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Local Content Policies and Petro-Development in Sub-Saharan Africa: A Comparative Analysis

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Abstract

New legal frameworks for oil and gas have been created in Ghana, Uganda, Mozambique, Tanzania, Kenya and Liberia since 2013 to put in place local content policies (LCPs). There are a number of reasons why such policies have become popular with African governments for petroleum and mining. Beginning with Angola and Nigeria and moving to the newer adopters of these policies, a general weakening of oil and gas LCPs in Sub-Saharan Africa indicates a 'softer' approach to regulation over time and a the emergence of a more pro-business agenda. This paper seeks to conduct an in-depth survey of LCPs in oil and gas across sub-Saharan Africa in order to identify differing approaches and analyze emerging trends in the legal and institutional frameworks within which local content frameworks are enacted and within which they will be implemented in order to advance petro-development in Africa.

Keywords

Africa; Development; Resources; Local Content; Oil; Gas

1. Introduction

Local content policies are proliferating across Sub-Saharan Africa. From traditional exporters of copper, gold and other metals to the many newly oil-rich states, new policies are being crafted as new resource discoveries set off a rush to put in place legal frameworks to govern their extraction. Since 2013, Ghana, Uganda, Mozambique, Tanzania, Kenya and Liberia have passed new legislation to govern the exploration and production of oil and gas. In the past few years, local content policies (LCPs) have also garnered new attention from numerous international institutions and donor agencies. However, studies tend to focus on mining, and even when they look at oil and gas, LCPs

are not often studied comprehensively. LCPs may temporarily relieve the pressure African governments feel to respond to expectations that have grown out of control even as oil prices continue to fall. However, if LCPs are not properly implemented, the relief will be time-limited. Lastly, in both oil and mining, LCPs are most popular when they are vague and not targeted at specific services or objectives. This lack of more refined policy objectives may limit the developmental benefit of local content.

The emerging petroleum regimes in Africa have been subjected to varying levels of individual scrutiny both from domestic non-governmental organizations and from international civil society organizations. The Natural Resource Governance Institute¹ has reviewed many of these laws while the Columbia Center on Sustainable Investment² has surveyed local content frameworks in a number of countries. Both the World Bank Oil, Gas & Mining Unit and the OECD Development Centre, through the Policy Dialogue on Natural-Resource Based Development, are planning more detailed country analysis of local content frameworks in petroleum and mineral extraction. Others have done analyses of local content policies that take more thematic approaches and rely on examples from different countries as opposed to detailed examination of the various frameworks themselves (Ramdoo, 2015). Klueh *et al* (2009) studied local content in a number of countries, but even as recently as 2009 it was only Angola and Nigeria that had notable policies when it came to African oil and gas. Hansen *et al* (2014) have done a case study on local content in Tanzania, Uganda and Mozambique, but one that does not focus specifically on the oil sector.

LCPs increase the utilisation of national human and material resources in the extractives sector. In the case of petroleum, they domicile in-country oil and gas-related economic activity that was

¹ See, for example, recent analyses of legal frameworks for petroleum in Uganda (<http://www.resourcegovernance.org/news/blog/ugandas-oil-revenue-management-framework-solid-start-not-nearly-enough>) and Ghana (<http://www.resourcegovernance.org/news/blog/ghanas-petroleum-exploration-and-production-bill-steps-forward-room-improvement>)

² See <http://ccsi.columbia.edu/work/projects/local-content-laws-contractual-provisions/>

previously located abroad. Local content policies promote indigenous participation in economies otherwise geared for the export of raw materials. They also encourage the development of local manufacturing and service provision through backward, forward and sideways linkages along the value chain for natural resources. In petroleum, LCPs work by encouraging and/or requiring exploration and production firms to use local companies for the procurement of goods and services and multinational oil service companies (OSCs) to domicile economic activities in the countries of extraction.

Physical and human capital development are also central to LCPs and fundamental for socio-economic development. Despite the small numbers of jobs available in oil and gas, the large number of goods and services needed for oil exploration and production offer numerous possibilities for employment. The oil and gas industry can only contribute to meaningful development through a combination of both appropriate investment of revenues and the development of productive linkages between the oil and non-oil economies. Taken together, these two approaches offer the possibility of petro-development in Africa (Ovadia, 2016b).

This paper is based upon an in-depth survey of LCPs in oil and gas across Sub-Saharan Africa. Through comparative analysis of the content of these new frameworks and the legal and institutional frameworks within which local content frameworks are enacted, I identify differing approaches taken by various African countries to petro-development. Overall, early adopters of LCPs in oil and gas have chosen 'hard LCPs' (concrete targets and regulations) while late adopters are largely opting for 'soft LCPs' (focused on training, competitiveness and voluntary shared value creation). This trend suggests a weakening in LCPs over time that may be the result of lobbying efforts by international companies, investors and Western governments.

Resource-based development has been widely studied in recent years. The ‘Making the Most of Commodities Programme’³ led to UNECA’s 2013 report on local linkages by the same authors. UNECA followed this up in 2014 with a report on dynamic industrial policies that focuses on the ways global value chain analysis can help create linkages between extractive industries and other sectors of the economy. As described in Ovadia (2014), several similar reports released around the same time from the OECD, UNDP, African Union, UNIDO, African Development Bank, and Africa Progress Panel also focused on resource-based development.⁴ Work on resource-based development begins with the insight that natural resources can have unique developmental potential. As I have noted elsewhere (Ovadia, 2016a), this is not a new idea, but one that in recent years has worked in reverse in the form of arguments about a so-called ‘resource curse’. The possibility of ‘positive oil exceptionalism’ does not deny that resources often have negative impacts but rather, as many authors have pointed out (Obi, 2010; Saad Filho and Weeks, 2013; Heilbrunn, 2014), that the resource curse thesis is highly deterministic. The insight that different policy options implemented in different social, political and economic contexts will bring about different developmental outcomes is the starting point for the analysis that follows.

In some respects, the scope for positive outcomes/positive oil exceptionalism has narrowed due to the fall in the price of oil. At the same time, the study of oil-backed economic development through LCPs is now even more important given the limits of development through the revenues from petroleum resources alone. Local content offers the oil and gas industry a development strategy the can promote economic diversification and growth in the non-oil economy. Such structural transformation, industrialization and diversification is the only path to long-term and sustainable economic and social development. In the wake of the oil price shock, LCPs can therefore be understood as more important for oil-rich developing countries, not less. Additionally, as the

³ See <http://www.commodities.open.ac.uk/mmcp> and Morris Kaplinsky, and Kaplan (2012).

⁴ See Africa Mining Vision (2011); UNDP (2012); UNCTAD (2012); UNIDO (2012); Africa Progress Panel (2013); UNECA (2013); AEO (2014); UNECA (2014) for a sample of such material.

currencies of Africa's oil producers are devalued with the fall of oil, the possibilities for encouraging domestic manufacturing and service provision increase.

Although there has been a lot of interest in local content policies, there has also been divergence in terms of enthusiasm and support for them. The World Bank (Tordo *et al*, 2013) remains neutral on LCPs while the OECD's draft Framework of Public-Private Collaboration for Shared Resource-Based Value Creation⁵ does not even mention the idea of targets or regulations. While there may be merits to the idea of public-private partnerships (see Ramdoo, 2015), local content undeniably involves a cost to the government and possibly (although not necessarily in the long term) to investors. This cost explains the Africa Economic Outlook 2014's general negativity toward LCPs—although the report generalizes about local content in extractive and non-extractive sectors when it notes 'localisation requirements can encourage linkage development' but can also 'simultaneously inhibit upgrading opportunities further down the value chain' (AEO, 2014: 193). Such concerns have led to discussions about 'alternatives' to local content (Kolstad and Kinyondo, 2015).

The analysis below—developed from careful charting of legislation and regulations across the continent as well as from interactions with senior government officials⁶—reveals that although new possibilities have opened for what I have called a 'petro-developmental state', there have at the same time been backward steps. The paper begins with the experience of African oil producers post-independence, describing early experiences of trying to assert national control and what went

⁵ Available at http://www.oecd.org/dev/Framework_Public-Private_Collaboration_FINAL.pdf

⁶ In addition to analyzing legislation and production sharing contracts, the methodology for this study involved observation and participation at oil industry events about local content and development through natural resources. Since 2012, I have interacted with senior officials in government regulators and state oil companies at a series of at least ten oil industry events. Some of these events may be considered public, others were held under 'Chatham House rules' and in some the information I gathered was through private conversations or communication after the fact. At these events, government and private sector representatives often felt more comfortable voicing opinions and information not available in the public domain. Although I was engaging with officials in their public capacities, I have chosen to label several interactions in which information was gathered as 'semi-private comments'. To protect their identities, I am including only the year of the event. To what extent I identify the position of the informant depends on how identifiable they are and what conditions were placed on the event I met them at.

wrong. In section 2, I chart Angola, Nigeria and Ghana's recent experiences with the adoption of local content policies as countries who already have oil production and a record of implementation to review. In section 3, the paper moves to review more recent debates and the adoption of local content legislation in several emerging African oil producers, namely Uganda, Mozambique, Tanzania, Kenya and Liberia. The paper then concludes by reviewing new trends and policy implications of the push for local content in oil and gas.

In each country described below, a government ministry, department, agency or state-owned company is responsible for advancing local content in oil and gas in order to nurture diversified economic development and bring about structural transformation. In each case, powerful internal and external groups limit the autonomy of these institutions and water down the policies they seek to enact. Domestic forces are seeking to direct the benefit of LCPs to local elites while foreign forces seek to limit the short-term cost to international capital. To succeed, it will therefore be necessary for the genuine and sincere actors implementing LCPs in government, the private sector and in civil society organizations to form alliances and build broad-based support in order to accomplish their development objectives.

The global commodities boom of the 2000s sparked important new debates on the role of natural resources in promoting economic development. A select few African countries have earned massive revenues from petroleum resources. Nigeria in particular has received hundreds of billions of dollars in the form of rents, royalties and taxes. However, petroleum also provided a major revenue stream for Angola, Gabon, and Equatorial Guinea. Hundreds of billions of dollars of revenues made little impact in the lives of most people in these countries. The new interest in LCPs comes about because of the growing recognition that oil revenues alone cannot fuel economic development. Although it may be years before it is possible to see how LCPs have played out and to know where they have caused economic and social development, the differences in approach, political and economic

context and capacity as well as the forces undermining the state-led approach can be better understood now to strengthen local content development in African oil industries and identify the best path to achieving positive developmental outcomes from petroleum resources.

2. African Oil Experiences: From National Control to Local Content

In discussing local content and petro-development, it is important to note that there is in fact a very long history of failed attempts to promote national control of petroleum resources in Africa.

National control gained momentum in the 1970s as countries began forming their own national oil companies (NOCs). Nigeria created its NOC in 1971—the same year it joined OPEC. The 1973 oil price shock increased the influence of OPEC, which began advocating for greater national control and socio-economic development through oil revenues. Nigeria began a program of nationalisation and indigenisation. By the end of the 1970s, it held 80 percent of the ownership of Shell Nigeria and 60 percent of the other international oil companies (IOCs) operating in Nigeria as well as equity interest in the subsidiaries of several multinational oil service companies. Policies of ‘Nigerianisation’ were enacted to encourage the employment of Nigerians in the oil sector and indigenous ownership through a variety of quotas and regulations.

Indigenisation in Nigeria was bitterly fought by foreign capital and particularly by the Lagos Chamber of Commerce and Industry. The policies ultimately failed to give the Nigerian state effective control over the industry and were more about elite capture of oil rents.⁷ By requiring some equity by Nigerian partners, the policies led to the practice of ‘fronting’, whereby a Nigerian citizen acted as a front for the foreign company or joint venture while both control of operations and ownership of the majority of profits remained with the foreign firm and the equity share given to the Nigerian partner

⁷ For a more in-depth discussion of indigenization, see Kennedy (1988), Biersteker (1987), Adejugbe (1984), Ogbuagu (1983), and Balabkins (1982).

was written off as a cost of doing business. In the end, as Claude Ake poignantly wrote, 'what was indigenized... was not control of the economy, but rather exploitation' (1982: 188).

Following independence in 1975, Angola nationalised the Portuguese company *ANGOL de Lubrificantes e Combustíveis*, creating the national oil company *Sociedade Nacional de Combustíveis* (Sonangol). International companies were permitted to operate in Angola in joint ventures and contractor agreements with Sonangol, but until 1991 they were only legally allowed to have 49% ownership in any venture. Angola was much more successful in asserting national control over its oil industry through Sonangol due to Sonangol's relative power and efficiency (Soares de Oliveira, 2007). Angola passed several laws beginning in the 1980s that set targets for Angolans employed by international companies and instituted a mandatory framework for the training and promotion of Angolan employees. However, these laws and regulations were largely ignored by the IOCs (Ovadia, 2012). The oil industry continued to be an enclave industry, serving until 2002 only to provide hard currency for the purchase of weapons in Angola's civil war.

Early attempts to exert national control reflected the dual objectives of increased sway over a strategic sector and increased developmental benefits. In the end, these objectives were superseded by elite self-interest and the resistance of foreign capital. Although the ruling party in Angola faced a struggle for its very survival and local linkages were certainly out of the question during the civil war, Sonangol arguably had the capacity to insist on more Angolanisation—and certainly more training of Angolans—if it had put long-term interests ahead of short-term payoffs. In Angola and Nigeria, which together still account for 80 percent of Sub-Saharan Africa's oil production, attempts to boost national control would eventually give way to local content.

With significant interests in Angola and Nigeria, Norway took advantage of Nigeria's return to civilian rule in 1999 and the end of Angola's civil war in 2002 to champion local content in these countries.

The Norwegian Agency for Development Cooperation (NORAD) sponsored the first study of local content in Nigeria in 2002 (see Heum *et al*, 2003), while Norway's Ministry of Foreign Affairs signed several cooperation agreements with Angola's Ministry of Petroleum that have supported ongoing Angolanisation efforts (Govender and Skagestad, 2009). An approach to oil-backed development took hold in both countries that recognised that oil exploration and production companies would never be significant employers on their own and instead emphasised local participation and local linkages to the oil service sector and beyond.

In Angola, Sonangol began promoting local content through old and new provisions in its contracts with IOCs and managed to underline the necessity of investing in local content if companies wanted to continue working in Angola. In Nigeria, an emphasis post-1999 on getting foreign companies to base their service activities in-country and use as many local suppliers of goods and services as possible alongside a continued push for more Nigerian ownership made LCPs much more palatable. While IOCs were initially resistant, over time LCPs have gained widespread acceptance and legitimacy. IOCs have accepted local content—in some cases begrudgingly and in others enthusiastically—though they have become increasingly concerned with cost since the oil price shock of 2014. IOCs continue to press for a more voluntary and less regulatory approach, particularly through engagement with fora like the OECD Policy Dialogue. So far, Nigeria has resisted such pressures and, despite increased scrutiny from the World Trade Organization, underlined their commitment to broad policies that target increased local participation across all sectors of the economy.

Both countries pushed hard to persuade IOCs to invest in facilities for local manufacturing and service provision and insist upon these policies in order to use oil services as an anchor to grow indigenous companies that can also participate in the non-oil economy. This strategy is the first step toward creating a pathway to economic growth and diversification. However, by refraining from

prioritizing sectors in which to build comparative advantage, Angola and Nigeria risk repeating the errors of previous attempts at import substitution instead of benefitting from the advantages East Asian countries experienced with state-directed export-led industrialization strategies.⁸

3. Recent Experiences in Angola, Nigeria and Ghana

The continent's traditional oil producers are now being joined by a number of new entrants and aspirants to the club of oil-exporting countries. With new technologies for deep water drilling, Angola and Nigeria significantly expanded their oil and gas production. Meanwhile, Ghana has become the first new producer from the region to bring oil extraction online. They will likely soon be joined by Uganda, Mozambique, Tanzania, Liberia, Kenya and others. This section will look more closely at LCPs in Angola and Nigeria as well as Ghana, while the next section considers newer players and debates.

Sub-Saharan Africa's two largest oil producers have taken very different approaches to local content. Angola's LCPs came out of a 2001 technical commission overseeing cooperation between the Angolan Chamber of Commerce and Industry, Ministry of Petroleum and Sonangol. As shown in Figure 1, Decree No. 127/03 required certain oil activities be carried out by partly or fully Angolan companies while Decree-Law No. 17/09 covers the participation and training of Angolans. These were supplemented by the control Sonangol's Directorate of Production (D.PRO) and Directorate of Economy and Concessions (DEC) have over the awarding of contracts and the Negotiations Directorate's overall coordination of local content. Through the Production Sharing Agreements (PSAs) Sonangol has with the various international oil companies operating in Angola, it can also require local content. Article 14 (or 13 in some PSAs) allows a preference of 10 percent on cost for

⁸ Undoubtedly, the conditions in which East Asian countries successfully built developmental states no longer exist. However, local content is one of the new factors opening up the possibility of new 'petro-developmental states' in Africa (Ovadia, 2016b).

Figure 1 – Legal Frameworks for Petroleum in Angola, Nigeria and Ghana

	Oil & Gas Discovered ¹	Total Oil Production (2014) (Barrels per Day) ²	Exploration and Production Legislation	Local Content Legislation and Regulations	Other Local Content Provisions	Key Implementing Institution(s)
Angola	1955	1,756,200	<ul style="list-style-type: none"> Petroleum Activities Law 10/04 of 12 November 2004 	<ul style="list-style-type: none"> Decree No. 127/03 of 25 November 2003 Decree-Law No. 17/09 of 26 June 2009 	<ul style="list-style-type: none"> Law 2/2012 & National Bank Order 20/2012 PSA (Arts 14 + 36)³ 	Sonangol, Directorates of Negotiations and Production; Ministry of Petroleum
Nigeria	1956	2,427,300	<ul style="list-style-type: none"> Petroleum Act 1969 The Petroleum Industry Bill was proposed in 2010. The Buhari administration has said they intend to amend and re-submit it 	<ul style="list-style-type: none"> Nigerian Oil and Gas Industry Content Development Act, 2010 	<ul style="list-style-type: none"> Local content provisions are also found in Joint Operating Agreements and Production Sharing Contracts⁴ 	Nigerian Content Development and Monitoring Board (NCDMB)
Ghana	2008	106,000	<ul style="list-style-type: none"> Petroleum (Exploration and Production) Act, 1984 A new Petroleum Exploration and Production Bill is pending 	Petroleum (Local Content and Local Participation in Petroleum Activities) Regulations 2013	<ul style="list-style-type: none"> Local content provisions are also found in the country's Petroleum Agreements (Articles 20 + 21)⁵ 	Ghana Petroleum Commission

¹ It was known that petroleum existed in Angola and Nigeria even prior to the 1950s, which is when production first began.

² US Energy Information Administration.

³ The 2011 agreement with Cobalt, BP and China Sonangol was used in the analysis of Angola's petroleum agreements.

⁴ See Ouedia (2016b) for details.

⁵ The 2006 agreement with Tullow, Sabre and Kosmos was used in the analysis of Ghana's petroleum agreements.

local companies and enables Sonangol to push for even more local content through its power to review and approve annual work plans and all contracts over a certain amount (Ovadia, 2012). Article 36 has provisions covering training and technology transfer. In his review of Sonangol's operations, Heller writes 'Local content and local staffing are important goals of most NOCs that work with international partners, but most international officials who work in Angola indicate that Sonangol is tougher about local content and places more emphasis on it than counterpart companies in other countries' (2012: 858).

3.1 Angola

Sonangol is the key implementing institution for LCPs in Angola. Through consistent prioritisation of local content, Angola was also able to exhort IOCs to support local content promotion (Ovadia, 2014). Sonangol is not the only actor however. In the Ministry of Petroleum, a directorate has been created called '*Direcção Nacional de Fomento a Angolanização*' (National Directorate for the Development of Angolanization) to increase and Angolan participation in the petroleum sector through what a senior government official calls 'positive discrimination'. Working with a commission of the Angolan parliament, he notes, this directorate was set to look into future LCPs, study the question of local content and report back its findings with the intention of drafting new legislation.⁹ The country has also passed new laws providing tax incentives to local companies and laws and regulations requiring the use of Angolan banks and forcing oil companies to pay taxes and local contractors in Angolan currency. Absent quantitative data on the impact of LCPs, my own investigations and contacts give me reason to believe the government has met with considerable success in its approach. New businesses are supplying goods and services previously supplied by foreign companies while larger firms are either partnering with Sonangol or working on their own to perform tasks in-country that were previously done abroad. However, there has been a cost to these policies, particularly in the wake of the oil price shock of 2014. IOCs also seem to be strengthening

⁹ Semi-private comments, 2014.

their opposition to Angola's regulatory approach by bringing up the added cost of local content requirements publicly in oil and gas forums as well as privately to Angolan officials.¹⁰ Additionally, as Heller notes, Angola has chosen to some extent to prioritize local content over short-term revenue because it 'serves as a patronage mechanism for the regime's network of supporters and is a key to the government's expanding-core economic strategy' (2012: 860).

3.2 Nigeria

In Nigeria, local content promotion also began with a workshop in 2001. After first creating a division within the NOC in 2005 to promote 'Nigerian content', the Nigerian Oil and Gas Industry Content Development Act (NCA) was passed in 2010. The law set targets for Nigerian participation in 280 separate categories on oil services. Many of these activities are also part of the non-oil economy. The list of the various services required for oil exploration and production demonstrates the possibilities for local linkages and opportunities for local employment. The NCA also created an agency, the Nigerian Content Development and Monitoring Board (NCDMB) to monitor and enforce compliance with the NCA. Progress is hard to demonstrate because there is still some difficulty in understanding how to measure local content (Ovadia, 2013).

Facing an enormous task in a very difficult context, the NCDMB has done a relatively good job. While there are also local content provisions in joint operating agreements and production sharing contracts between the national oil company and IOCs, these have never been well enforced. Although it is not difficult to find faults with NCDMB in its implementation of the NCA, some important improvements have been made and the danger of Nigerian companies serving merely as fronts for foreign ones seems to have been largely avoided.

¹⁰ Semi-private comments, 2015.

Through various capacity building initiatives with IOCs (see Ovadia, 2013; 2014), the NCDMB has managed to make impressive gains. The NCDMB claims that the national capture of annual investment in oil and gas has gone from less than 5 percent to roughly 40 percent. In the fall of 2015, an official from the NCDMB claimed that local content was 90 percent in engineering design, 60 percent in the manufacture of valves and fabrication of subsea systems, and 45 percent in the manufacture of high voltage cables.¹¹ However, the NCDMB has also claimed in the past that over 30,000 new jobs have been created with hundreds of thousands more on the way. While they may be overly optimistic, the benefits have been substantial while the amount of investment retained in the Nigerian economy is likely several billion dollars annually. The NCDMB also claims that 70 percent of purchase orders were now given to local companies,¹² indicating the success of their Original Equipment Manufacturer (OEM) scheme (described in Ovadia, 2013; 2014). However, as noted with reference to Ghana below, the value of contracts given to local companies can be significantly less than the percentage of contracts. Now facing scrutiny from the World Trade Organisation, Nigeria's approach to local content is likely to be challenged. Additionally, the promotion of local content seems to be driven more by the IOCs than the government (Ovadia, 2014). However, in a country that has seen little benefit from over 50 years of oil production, local content seems to be working.

3.3 Ghana

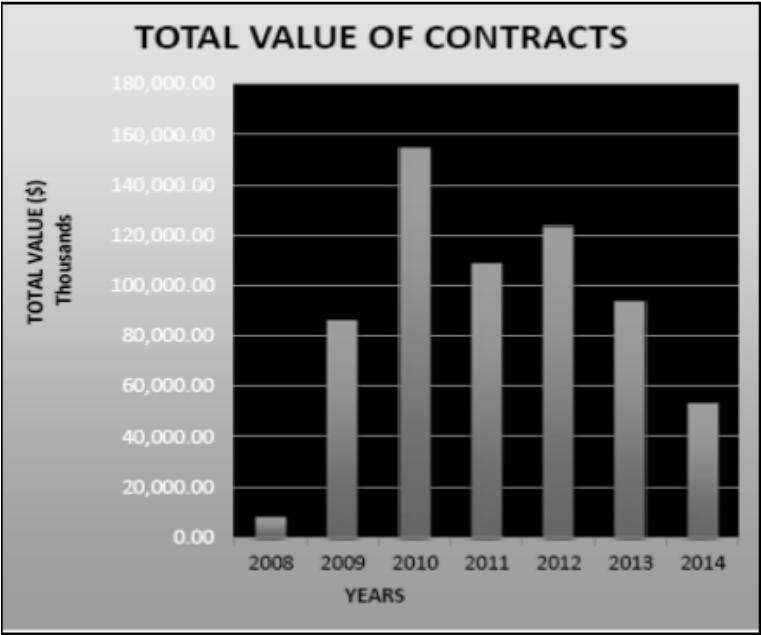
Ghana discovered oil in waters off the Western Region of the country on its 50th anniversary in 2007 in what became the 'Jubilee field' and moved quickly to put in place a policy framework for the petroleum industry that laid out goals, objectives and directions. A law passed in 2011, the Petroleum Commission Act, set up an agency dedicated to regulating the industry. Ghana's new Local Content Law (GLCL) was passed in November 2013. The law is quite similar to Nigeria's law,

¹¹ Semi-private comments, 2015.

¹² Semi-private comments, 2015.

containing a similar schedule of oil services, targets and definition of local content. There have also been some early successes. According to a member of the Ghanaian government, by 2014 there were 6,900 people employed in oil and gas in Ghana; over 90 percent of them Ghanaian. This is slightly higher than similar statistics reported in Amoako-Tuffour *et al* (2015). While 40 percent of managers in the industry are Ghanaian, most local employees are in lower and mid-level positions. In terms of Ghanaian companies, I was told that a total of \$584 million in contracts had been awarded to Ghanaian companies; \$284 has been awarded to oil service companies and the remainder to non-oil companies. However, Ghanaian companies are more likely involved in services like catering, hospitality and freight-forwarding, which are lower value.¹³ Less than a year later, a different Ghanaian official said that 4,774 Ghanaians were employed in oil and gas, representing just over 70 percent of all employees and that the value of local contracts was over \$600 million since 2009 (see Table 1). However, the official noted that while thousands of contracts have been awarded to Ghanaian companies representing 60-75 percent of all contracts, the value of the contracts awarded to those companies was less than 5 percent of the total value of the contracts.¹⁴

Table 1 – Value of oil industry contracts awarded to Ghanaian companies



Source: Petroleum Commission

¹³ Semi-private comments, 2014.

¹⁴ Semi-private comments, 2015.

As a source at the Petroleum Commission explains, the current thinking of the Ghanaian government is that there were missed local content opportunities in Ghana's past with mining, telecommunications, the West African gas pipeline and gas infrastructure, and with the first oil find in 2007. The informant stated at an oil industry event that the audience would be 'appalled' by the lack of community benefit from gold mining. The Jubilee field, the official argued, employed a 'revenue-focused approach' to resource extraction in which the government chose the cheapest and fastest route to first oil and paid little attention to value addition. Instead, it relied on taxes and royalties for developmental benefits. However with newer oil fields, Ghana has moved to an 'in-country focused' approach, which prioritizes long term value and takes lower revenue in order to have higher in-country value.¹⁵

Although similar to the Nigerian law, the GLCL is weaker in that it has fewer provisions to avoid locals acting as fronts for foreign companies and fewer regulations that promote job creation over indigenous ownership. Unlike Nigeria's law, the GLCL does little to stop local companies subcontracting services from foreign companies, does not require local companies in joint ventures to own any of the capital equipment, and does not address the issue of local companies importing goods manufactured abroad. According to an official with the Petroleum Commission, they do check into the obligations, payments and contractual relations local companies have with joint venture partners. If they ever find company acting as a front, the official said, they would report the company to the police. To date, it does not appear this has happened.¹⁶ Given that the Petroleum Commission is receiving hundreds of reports annually from companies and that according to their own figures over 200 Ghanaian companies have been awarded contracts by the oil industry since 2009, it seems difficult to imagine that they can be very rigorous in their enforcement and it is not surprising that AECT has concluded that there is a 'high risk of fronting and "foreign local

¹⁵ Semi-private comments, 2015.

¹⁶ Semi-private comments, 2015.

partnership” in the industry’, especially when it comes to requirements for local equity exploration and production (2015: 15).

The GLCL gives preference to local companies where the costs are within 10 percent, similar preference to what is awarded in Nigeria but less than the 20-30 percent preference that Angolan companies may receive in practice over competing tenders (Ovadia, 2012). The GLCL also replicates some of the problems with Nigeria’s NCA in defining and measuring local content. The weakening of the GLCL suggests that with time, international capital has found new ways of organising and watering down the aspects of LCPs it deems most unfavourable.

A final concern is the impact LCPs are having in communities in Ghana’s Western Region where petroleum operations are taking place. Calling local content and business involvement the ‘the weakest link’ in Ghana’s oil and gas industry, Panford writes: ‘At the current pace of local business participation and employment of nationals, the multiplier benefits from oil will take a long time to trickle down to the teeming masses of unemployed Ghanaians, including more than 300,000 youths who enter the labor market each year’ (2015: 88). In his study of the Enterprise Development Centre in Takoradi, Ablo concludes: ‘the EDC project could be essential in promoting local entrepreneurial activities in the sector. However, at its current scale, the impact of the EDC project on the wider Ghanaian economy is limited’ (2015: 326). More research is needed to understand the impact of petroleum operations—even deep offshore—on nearby communities.¹⁷

4. Local Content and In-Country Value: New Actors and Debates

Local content promotion has integrated itself into the international oil industry in ways that a decade ago would have seemed quite unlikely. The concept has currency well beyond Africa and oil

¹⁷ Some good work on this topic with reference to Ghana has been done by Ayelazuno (2014) and Ackah-Baidoo (2013).

and gas. It is on the agenda for countries from Brazil, Mexico and Chile to Oman, Kazakhstan and Indonesia. Major oil industry conferences such as the Global Local Content Summit¹⁸ and the Global Local Content Council's Annual Summit¹⁹ and the World NOC's Local Content Congress²⁰ compete to attract delegates from government agencies and multinational corporations willing to pay thousands of dollars per person in registration fees so they can learn about the latest trends. Attending events like these was an important source of primary data for this study.

4.1 'In-Country Value' and Debates Around 'Win-Win' LCPs

In recent years, Oman has led the way in promoting its vision of 'in-country value' (ICV), which appears to shift the emphasis from local employment and expatriate worker quotas to a more business-friendly approach focused on the oil and gas supply chain. This approach seems to have worked to further water down the binding regulations and mandatory participation of local companies in newer local content strategies. In-country value may also suggest a movement away from granting any kind of domestic preference to companies that are not price competitive with international companies. While there is widespread agreement that indigenous firms must supply goods and services of the same quality as international companies, some margin (normally 10 percent but sometimes more as in the case of Angola) is given to indigenous companies in Angola, Nigeria and Ghana. However, such policies are less common in newer local content regulations and are among the most controversial aspects of LCPs.

Focusing on ICV and economically productive activity can lead to very interesting and potentially important discussions about the nature of value and what is considered to be productive economic activity. Nevertheless, the term 'in-country value' serves to build broader consensus around LCPs between national governments, foreign capital and national and international civil society (including

¹⁸ <http://www.localcontentsummit.com/>

¹⁹ <http://www.glccsummit.com/>

²⁰ <http://www.terrapinn.com/conference/nocs-local-content-congress/index.stm>

NGOs, labour unions, business associations, etc.). Most importantly, ICV emphasises the idea that enhancing local elite ownership is not necessarily developmental, but rather is reflective of the ‘dual nature’ of local content policies (Ovadia, 2012). The notion of ICV works alongside the adoption of broad, non-targeted local content objectives in the sense that such policies are popular and ‘feel good’ yet do not harm any particular interest group.

In-country value, along with ‘shared value creation’ (a term preferred by the OECD) and discourses of ‘win-win’ opportunities for ‘public-private’ cooperation, has begun to replace the concept of ‘local content’ in discussions facilitated by IOCs and various international institutions for both petroleum and mineral extraction. In most African countries—especially new oil-producing countries—ICV may mean stressing small and medium sized local enterprises and more in-country activity for larger multinational firms. However, while there are some aspects of local content policy that will be ‘win-win’ and involve *shared* value creation, there are other aspects of local content that may be national development objectives but may simply not be wins for international companies. Similarly, there are other aspects that may only be beneficial in the long-term, yet companies may not view as beneficial (profitable) because they are primarily concerned with short-term gains. For example, as discussed at a local content conference in London in 2015, IOCs may have minimal interest in providing advanced training to their staff because those individuals may then leave the firm with their new skills in search of more lucrative employment. For the state however, that individual will continue to pay tax if they remain employed in-country and even if they seek employment abroad will likely still send hard currency back home. Therefore, the state has a much greater interest in promoting training and human capacity development than do IOCs.

The most significant shift in the past 2-3 years for local content in Africa has not been the move to consider in-country value or petroleum value chains, but rather the development of new petroleum regimes with local content provisions in countries that have recently discovered petroleum

Figure 2 – Legal Frameworks for Petroleum in Uganda, Mozambique, Tanzania, Kenya and Liberia

	Oil & Gas Discovered	Total Oil Production (2014) (Barrels per Day) ¹	Exploration and Production Legislation	Local Content Legislation and Regulations	Other Local Content Provisions	Key Implementing Institution(s)
Uganda	2006	0	• Petroleum (Exploration, Development and Production) Act No. 3/2013	• Petroleum (Exploration, Development and Production) Act contains basic provision • Draft Local Content Regulations	• Draft National Content Policy and Implementation Plan • PSA (Arts 18, 20, 21) ²	Petroleum Exploration and Development Department; National Content Steering Committee, Ministry of Energy and Mineral Development
Mozambique	2010	>0.1	• Petroleum Law, Law No. 21/2014 (exempts Rovuma Basin) • Decree-Law 2/2014 for Rovuma Basin	• Draft Local Content Regulations (2015)	• A new local content law is being drafted • Exploration and Production Concession Contract (Art 18) ³	National Petroleum Institute (INP)
Tanzania	2010	>0.1	• The Petroleum Act, 2015	• Draft Local Content Regulations (2014)	• LCPs are absent from current PSAs but included in 2013 Model PSA	Petroleum Upstream Regulatory Authority (PURA)
Kenya	2010	0	• Draft Petroleum (Exploration, Development & Production) Bill 2014	• Draft Petroleum Exploration, Development & Production (local Content) Regulations 2014	• PSC (Arts 13 & 31) ⁴	Proposed Upstream Petroleum Regulatory Authority
Liberia	2012	0	• Petroleum Exploration & Production Act 2013	• Petroleum E&P Act contains basic provisions • Draft Local Content Legislation	• PSC (Article 29) ⁵	National Oil Company of Liberia (NOCAL)

¹ US Energy Information Administration.

² The 2012 agreement between Uganda and Tullow for Area 1 was used in the analysis of Uganda's petroleum agreements.

³ The 2007 agreement between Mozambique and ENI for Rovuma Area 4 was used in the analysis of Mozambique's petroleum agreements.

⁴ The 2012 agreement between Kenya and CAMMAC for Block L1B was used in the analysis of Kenya's petroleum agreements.

⁵ The 2013 agreement between Liberia and Exxon for Block 13 was used in the analysis of Liberia's petroleum agreements.

resources. As in Ghana, for those that did not have previously significant oil industries, there has been a scramble to construct a legal framework for petroleum extraction. What follows is a consideration of African countries that have been implementing new local content policies since 2013.

Recent oil and gas discoveries have raised enormous expectations in Uganda, Mozambique, Tanzania, Kenya and Liberia. As shown in Figure 2, none of these countries have entered into significant production since their oil and gas discoveries (though some do produce minor amounts of petroleum resources). Despite the recent drop in oil prices, all of these countries are expecting a major new revenue stream to come online within the next few years and are also hoping to increase the developmental benefit of petroleum and avoid the resource curse through the implementation of LCPs. There are major variations in these countries' approaches to local content. All policies contain hiring and training provisions. Additionally, they all privilege local companies in contracting and local ownership in terms of equity participation in oil exploration and production as well as oil services. However, differences exist in terms of whether they use quotas and targets and whether or not local companies are protected from international competition on price. Overall, the tone of the new LCPs seems friendlier to international capital while the regulations do not seem as detailed or as easy to enforce. The definition of a local or indigenous company is not always provided while well-known pitfalls around the problems of 'fronting' and measurement of local content are generally not properly addressed. While this comparison cannot account for changes made to policies that are not finalised yet, it does suggest that countries may not be getting or accepting good advice when it comes to best practices for LCPs.

4.2 Uganda

Before the discovery of oil and gas in Uganda, there was no specific legislation or deliberate policy drive to promote local content. The Petroleum (Exploration, Development and Production) Act of

2013 stipulates that ‘contractors and subcontractors shall give preference to goods which are produced or available in Uganda and services which are rendered by Ugandan citizens and companies’.⁶ However, not only is there no definition of local content in the act, there is also no definition of a local company to clarify if this term means a company registered in Uganda or owned by Ugandan citizens. The act also contains provisions about the employment and training of locals, however it does not mention any penalties for non-compliance.

Uganda has moved more slowly than other countries—possibly deliberately due to an acknowledgement of its lack of capacity. In 2008, a ‘National Oil & Gas Policy for Uganda’ (MEMD, 2008) was produced and endorsed by the cabinet that recommended putting in place a regulatory framework for what Uganda calls ‘national content’. A 2011 report by the Ministry of Energy and Mineral Development (MEMD, 2011) provided recommendations for a national content policy, including a section on definitions that has since been refined to the definition used by the Ministry: ‘value addition to the [Ugandan] economy through the use by the petroleum industry of materials produced or available in Uganda and services provided by Ugandans and Ugandan firms’.²¹ Although the 2011 study was not approved at the cabinet level, it was the basis for a National Content Policy and an implementation Strategy and Plan, development by the Petroleum Exploration and Development Department within the Ministry. Additionally, a National Content Coordinating Unit has been created in the Ministry of Energy and Mineral Development, referred to as the ‘National Content Steering Committee’. This committee, chaired by the Ministry’s Permanent Secretary, is now producing draft regulations arising out of the primary laws on the upstream (Petroleum Act 2013) and downstream (Petroleum Refining Act 2013) sectors. Speaking in early 2015, a member of the Steering Committee, stated that the regulations would be available in late 2015.²² As of early 2016, they had not been made public.

²¹ According to an official in the Ministry, this is the text of the definition in Uganda’s as yet unpublished draft local content regulations (Semi-private comments, 2015).

²² Semi-private comments, 2015.

Some studies have been done that try to project the potential benefit of national content in Uganda. Analyses by Kjær (2013) and Hansen *et al* (2014) use estimates from the Ministry of Energy and Mineral Development's 2011 study. The study suggests that 'the share of national content during the phase of exploration so far, is presumably low: probably around 15 percent' (2011: 6). The tentative nature of the estimate and the fact that Nigeria struggled for 50 years to achieve 5 percent national content suggests this number may not be too reliable, particularly given the study's acknowledgement that 'manufacturing does not play any significant role in the Ugandan economy... This means that national content development and industrial capacity building will have to build on a rather weak industrial base' (MEMD, 2011: 7). However, recent statements by officials from the Ministry of Energy and Mineral Development do claim that Ugandan companies are currently winning over a quarter of total spend by value of contracts.

Low levels of manufacturing do not preclude local content gains. The 2011 study forecasts over US\$10 billion in investments, suggesting at least 10,000 jobs will be created at peak construction, leading to around 1,700 permanent jobs (MEMD, 2011: 6, 22). The report, however, seems to focus only on heavy manufacturing and does not account for national content in service provision and the number of direct and indirect jobs that could potentially be created. In this respect, without estimating potential employment, the study notes that Tullow Oil reports a total of 550 Ugandan suppliers providing goods and services and winning 38 percent of all contracts by value (MEMD, 2011: 19).

In terms of early criticisms that have been made by other scholars, Hansen *et al* note an IOC concern with the idea that the Minister will likely have the power to withdraw or refuse to issue a license for a sub-contractor. They suggest it may mean IOCs are not free 'to choose the best sub-contractors'. Citing Buur's (2014) work on elite capture of new economic opportunities, they also express concern

that such capture can block SME development. However, it is not clear that these are negative outcomes. In fact, they are common provisions in LCPs in Angola, Nigeria and Ghana. Without entering into arguments about the necessity of industrial policies that help local elites in the short term, it is worth mentioning that the 2011 Ugandan study did find that local ownership is not key, as long as value addition is undertaken in Uganda.

4.3 Mozambique

Mozambique passed a Petroleum Law in August 2014 that privileges local companies and joint ventures in the awarding of concessions, requires foreigners to partner with Mozambicans (individuals or companies 51 percent owned by Mozambican nationals) to provide goods and services, gives preference to Mozambican goods and services of comparable quality to foreign goods and services where the cost difference does not exceed 10 percent. In this sense, Mozambique's LCPs are stronger than Uganda's and comparable to Angola, Nigeria and Ghana. There are requirements to provide training of Mozambican nationals, while quotas for foreign workers are found in other legislation. While the law does not address targets or measurement of local content, the most concerning aspect of the law is that current petroleum operations are exempted from the law and subject to their own Special Regime. This regime does require local content plans to be submitted to and approved by the government, however it states that 'no preference needs to be given to Mozambican suppliers' in most circumstances. Mozambican authorities have also signalled their desire to ensure a positive environment for investment in the oil and gas industry with what one official called a 'Total Positive Sum Initiative' for industry, government, entrepreneurs and civil society.²³

The Petroleum Law, however, was not intended to be the final word on local content. In July 2015, the National Petroleum Institute (INP), which regulates the sector, produced draft local content

²³ Semi-private comments, 2014.

regulations with assistance from the Norwegian government. Article 45 contains basic reporting requirements around employment of locals while Article 49 would finally put in place a 10 percent preference for indigenous companies. The remainder of the regulation contains clauses on domestic supply (Article 106), fines for failure to comply (Article 115) and training (Articles 116 and 117). Significantly, Article 115 specifies a maximum fine of roughly US\$125,000, which does not seem large enough likely to enforce compliance by major IOCs.

Noting that ‘over US\$25 billion is expected to be invested by 2020 for oil and gas companies to reach initial production’, a USAID report on local content in Mozambique breaks down LCPs across various (and sometimes conflicting) pieces of Mozambican legislation, noting policies related to employment, finance, procurement and corporate social responsibility (Kooker, 2015: 1).²⁴ While the legal framework for local content in Mozambique is already extraordinarily complex, it may get more complex with news that the Ministry of Economy and Finance is writing new local content law to apply to the whole economy.²⁵ The new law may simplify things by overriding or superseding any other law on any issue pertaining to local content, however it is not clear how this would work. The law was being drafted in early 2015 with a draft supposed to be ready by June, however again this has been delayed—potentially due to the continued decline in oil prices. Once this law is in place, various government ministries and agencies will write supporting regulations for their sector with petroleum-specific regulations possibly being produced anew in 2016 or beyond. News of this development creates uncertainty for investors, which may be a blow to the country given the changing investment climate for oil and gas since 2014.

²⁴ The relationship between local content and corporate social responsibility is worthy of further discussion, however such a discussion cannot take place within the scope for this paper.

²⁵ Semi-private comments, 2015.

4.4 Tanzania

Tanzania's draft local content regulations seem to be the least rigorous in Sub-Saharan Africa to date. Released in 2014, they state that foreign oil companies will be 'encouraged' to work with a local partner. They 'encourage multinationals to bring their global oilfield services and equipment to Tanzania' and ask that multinationals 'ensure' training and technology transfer to local employees. They also specify that where the bids 'are otherwise equal, the bid containing the highest level of Tanzanian content shall be selected', but do not explain how this will be measured. The draft policy does require preference be given to the employment of Tanzanians, however they must have 'the requisite expertise or qualifications'. Where foreigners are employed, it requires a succession plan to a Tanzanian national must be submitted with the work permit application. It also requires all operators 'as far as practicable, to use goods and services produced by or provided in Tanzania by Tanzanian owned businesses'. While this language seems vague enough to be almost voluntary, the policy does suggest there may be a margin of price preference prescribed by legislation.⁸

The passage of the Petroleum Act in 2015 did put in place certain reporting requirements for the newly created Petroleum Upstream Regulatory Authority (PURA). While the new law states a preference for goods and services available in Tanzania, when these are not available they confuse the definition of an indigenous company by giving preference to joint ventures where Tanzanians own 25 percent or more of the company. With the 2015 elections concluded, it is likely a new version of the draft regulations will soon be released. In Semi-private comments, the Chairman of the Tanzanian NOC assured the oil and gas industry that as part of the new focus on shared value creation, the draft framework has been discussed with IOCs and that they had 'mostly positive feedback'. Reflecting the new norm of 'win-win' policies, he went on to say 'There were some disagreements but we had good discussions and I believe that when the final policy is passed the IOCs will be happy. I believe both sides will get a good deal'.

4.5 Kenya

Kenya's legislation may be less voluntary than Tanzania's, but it seems that the maximum fine named in the draft Petroleum (Exploration, Development & Production) Bill 2014 is one million Kenya shillings (under US\$10,000), which is not likely to be much of a deterrent. The draft Petroleum Exploration, Development & Production (Local Content) Regulations, also of 2014, have some penalties as high as five million shillings and suggest that the proposed Upstream Petroleum Regulatory Authority will alternatively be able to cancel contracts and possibly imprison violators. However, these are quite extreme measures that are not likely to be enacted. According to a senior Kenyan official speaking in 2014, the government was planning to pass the Petroleum Bill and Local Content Regulations in 2015, however to date they are still pending.²⁶ The regulations call for detailed local content plans to be submitted in the model of Nigeria and Ghana covering employment and training, research and development, technology transfer and legal and financial services. In this respect, they are stronger than, for example, Uganda's laws, which do not have strong technology transfer regulations. They also contain specific sections on local fronting that are absent from the other new LCPs. Controversially however, the local content regulations contain a schedule that is virtually identical to the schedule in the NCA and GLCL. Even more so than in the cases of Ghana and certainly Nigeria, it seems completely impossible that the targets in Kenya's draft law could be met in the short to medium term.

4.6 Liberia

Finally, the Liberian Petroleum Exploration & Production Act of 2013 makes only vague reference to hiring and training of Liberians, a preference for local ownership of participation in oil blocks, the reservation of onshore blocks for Liberian companies and a preference to Liberian companies for contracts under US\$3 million if they are cost competitive with international companies. While national consultations were held and a committee struck that included the Ministry of Mining and

²⁶ Semi-private comments, 2014.

Energy to prepare new local content legislation, the National Oil Company of Liberia (NOCAL) seems to have taken over the process and is operating in secrecy. Reporting to the President, NOCAL is both regulator and NOC, as in the case of Sonangol. A senior government official who was part of the committee that was struck said in 2015 that ‘NOCAL has been very untransparent... Now it’s all closed. I don’t know what’s happening with the new LC law or what will be included... decisions are taking place behind closed doors’.²⁷ Speaking to an oil and gas industry event in 2014, a board member of the National Oil Company of Liberia emphasised the government’s business-friendly ‘win-win’ approach and role in promoting a ‘stable legal climate’ and ‘table, favourable tax regime’.²⁸ In June 2015, the CEO of NOCAL stated that she expected the law to be published by the end of the summer and that it would involve IOCs supplying local linkages plan, which is already a requirement of Liberia’s Production Sharing Contracts (PSCs). She went on to say a new approach was needed that was more collaborative and involved working with IOCs because business considered its previous petroleum regime to be inadequate.²⁹

As a concluding aspect of this study, it is also necessary to compare the petroleum agreements in new oil producers. The terms of these agreements vary, but not as considerably as other local content requirements. As shown in Figure 2, petroleum agreements have been located and reviewed for all five countries. Uganda’s PSA with Tullow Oil contains provisions around preference for domestic use of oil (Article 18). Article 20 requires preference be given to goods produced or available in Uganda and services rendered by Ugandan citizens and companies. However, these goods must be equal to or better than imported goods and services with regard to quality, price and availability. Finally, Article 21 contains provisions and spending commitments for training and employment. Mozambique uses concession contracts instead of PSAs/PSCs. They contain provisions on employment and training (Article 18) that specify standard spending commitments. However,

²⁷ Semi-private comments, 2015.

²⁸ Semi-private comments, 2014.

²⁹ Semi-private comments, 2015.

Mozambique's contracts for the Rovuma Basin do not contain any other local content requirements. Taken together with the decree-law for Rovuma, it seems Mozambique has failed to learn from Ghana's experience with the jubilee field and has sacrificed local content for revenues in its first major gas developments.

In the case of Tanzania, LCPs are absent from current PSAs but can be found in the 2013 model PSA, which is intended for future developments. The model PSA has requirements around training and employment (Articles 19-21), which include spending commitments that are somewhat higher than in Uganda and Mozambique. Under Article 21, contractors must also submit an annual local content plan. Kenya's PSCs contain similar sections on training and employment with similar spending commitments to Uganda and Mozambique (Article 13), have obligations regarding supply of crude oil for domestic consumption (Article 29), and give preference to Kenyan goods and services 'as long as their prices, quality, quantities and timeliness... are comparable' to foreign ones (Article 31). Lastly, Article 29 of Liberia's PSCs contain training and employment provisions similar to the above with slightly higher spending commitments. They also require operators to provide NOCAL with a project linkages plan and to update it with the annual development and production plan.

5. Conclusions and Policy Implications

Taken together, all five of the most recent local content strategies in Africa represent a weakening of LCPs in favour of a more pro-business agenda and avoidance of key issues around definitions and measurement that have been of concern in Angola and Nigeria. In other words, 'hard' regulatory policies are being replaced with 'softer' voluntary ones. With Tanzania and Liberia in particular there seems to be a watering-down of key mandatory provisions of LCPs in order to achieve a supposedly 'win-win' consensus with international oil companies. It is true that both firms and countries can benefit from upgrading along the petroleum value chain. What remains to be seen is whether in-

country shared value creation as promoted by international institutions and enacted by African states serves national development or whether the value ends up being shared by international and national capitalists to the exclusion of everyone else.

The most recent oil price shock has demonstrated the folly of relying on the revenues from extractive industries to bring about meaningful social and economic development. Only an approach that promotes economic diversification and plans for a future beyond hydrocarbons can serve as a justification for taking those hydrocarbons out of the ground. However, it is precisely when the price of oil falls that new efforts are made by oil companies to sacrifice local content in the name of the bottom line.

This paper has identified several elements of best practice from LCPs across Sub-Saharan Africa. Strong LCPs impose mandatory targets but ensures that they are within reach of a strategy that is well-implemented by strong, capable and independent institutions. They mandate investment in human capacity development, regular reports on progress to government and preferably to civil society as well, give preference to quality local suppliers of goods and services even when they are not fully cost competitive, require companies to invest in research and development, ensure technology transfer is occurring, contain meaningful enforcement provisions and penalties, incentivize foreign companies to add more value to their activities in-country, and prioritize local content in sectors of oil services like engineering design, finance, legal services, and fabrication that have extend into the non-oil economy. Whether they come in the form of legislation, regulations or contractual obligations that form the part of petroleum agreements, LCPs must be consistent, binding on all players, and implemented in a transparent manner by competent and sincere officials in the public and private sectors.

Many aspects of local content can be beneficial in the long run to IOCs as well as to states and their citizens. Some however are necessary strategic objectives and economic imperatives for countries seeking to ensure a developmental benefit as they convert a resource under the ground (hydrocarbons) into another kind of resource (hard currency for the state treasury). Oil wealth does not produce free money and it is not a windfall. Once this conversion occurs, a resource no longer exists. If this process harms people's livelihoods or leaves the entire country worse off, the obvious response is that it should not be undertaken.

This response is not obvious to an international oil company. Holding a primary duty to its shareholders, an IOC is simply pursuing its natural objective in attempting to reduce the costs of doing business—particularly in a period of low oil prices. Yet, IOCs have generally been supportive of LCPs and raised only a few objections to particular requirements—for example dedollarization in Angola or the requirement to contribute 1 percent of contract values to a dedicated local content fund. The largest oil service companies such as Schlumberger, Haliburton, Fluor and others have also come to be supportive as well, as evidenced by a conversation with a lobbyist from an organization that represents six of the biggest global oil service companies, who told me that large transnational companies do not have major objections to local content policies. The main concern they do have is being able to bring their technology out with them when they leave, which demonstrates again how some aspects of local content are simply never going to be 'win-win'.³⁰ Greater resistance has come from Western governments—particularly the British and American governments. In 2010, the US embassy in Abuja eagerly supplied me with a list of the top ten 'issues' with Nigeria's local content legislation. Anecdotally, I have been told on multiple occasions that the US, and to a lesser extent the UK, oppose LCPs and have pressured governments to weaken key clauses.³¹

³⁰ Semi-private comments, 2015.

³¹ Semi-private comments, 2015.

What must be opposed are approaches to resource extraction that further the very real dynamics of a resource curse—a curse that a growing body of political and economic scholarship is showing can be combatted with the right policies, institutional configurations and alliances. This article has attempted to provide a comparative analysis of LCPs. Such an analysis is only the beginning. Going forward, new research is required on the role of civil society in petro-development and on empirically measuring and verifying the impact and benefit of various approaches to local content. This is an even greater task that is many years away from being feasible.

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